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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 JAMES DAVIS,

11 Plaintiff,

12 v.

13 THE STATE OF NEVADA, *et al.*,

14 Defendants.
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Case No. 2:10-CV-01364-KJD-PAL

ORDER

16 Presently before the Court is Plaintiff's Motion for Leave to Proceed *In Forma Pauperis*
17 ("IFP") on Appeal (#16). Having read and considered Plaintiff's motion, it is denied as the appeal is
18 frivolous and not taken in good faith. See 28 U.S.C. §1915(a)(3). Under 28 U.S.C. § 1915(g),
19 Plaintiff has been banned from filing actions IFP unless he can show he is in imminent danger of
20 serious physical injury. See Case No. 3:04-cv-529-ECR-VPC. Plaintiff asserts that by his
21 incarceration he is in imminent danger. However, Plaintiff's complaint did not address those
22 allegations, but again attempted to attack his state court conviction.

23 Instead, demonstrating that the appeal is taken in bad faith, Plaintiff is essentially challenging
24 his state court criminal convictions which have never been reversed on direct appeal, expunged by
25 executive order, or declared invalid. See Heck v. Humphrey, 512 U.S. 477, 484 (1994)(section 1983
26 actions are not appropriate vehicles for challenging state court convictions).

1 Accordingly, Plaintiff should not be permitted to proceed *in forma pauperis* where, as here,
2 the appeal is frivolous and not taken in good faith. 28 U.S.C. §1915(a)(3).

3 DATED this 22nd day of April 2011.

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7 Kent J. Dawson
8 United States District Judge
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